

**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA**



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Order Instituting Investigation And Order to Show Cause on the Commission's Own Motion into the Operations and Practices of Pacific Gas and Electric Company with Respect to Facilities Records for its Natural Gas Distribution System Pipelines.

Investigation 14-11-008
(Filed November 20, 2014)

CITY OF CARMEL-BY-THE-SEA'S PREHEARING CONFERENCE STATEMENT

STEVEN R. MEYERS
BRITT K. STROTTMAN
EMILIE E. DE LA MOTTE
Meyers, Nave, Riback, Silver & Wilson
555 12th Street, Suite 1500
Oakland, CA 94607
Phone: (510) 808-2000
Fax: (510) 444-1108
E-mail: smeyers@meyersnave.com
Attorneys for CITY OF CARMEL-BY-THE-SEA

March 5, 2015

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I. Introduction

Pursuant to Administrative Law Judge Maribeth Bushey's email ruling of February 27, 2015, the City of Carmel-by-the-Sea (Carmel) respectfully submits this prehearing conference statement. Judge Bushey's email ruling requested that the submitted statements: 1) identify the parties' perceived disputed material fact; and 2) propose a schedule to complete discovery.

This Order Instituting Investigation (OII) explores whether Pacific Gas and Electric Company (PG&E) violated any recordkeeping-related laws in response to six pipeline incidents which occurred due to data error. One incident occurred in Carmel where PG&E welders tapped into a two-inch steel gas distribution pipeline which, unbeknownst to the welders, contained a plastic pipe inside that created the release of gas, which then caused a gas explosion that destroyed a connecting home. PG&E possessed no records of the inserted plastic pipe. PG&E states it does not dispute the facts presented against it with some "minor exceptions." Carmel submits this statement because it is unclear whether PG&E's so-called "minor exceptions" amount to a dispute of material fact. Carmel does not know exactly what facts PG&E admits and what facts it disputes.

II. Carmel's Disputed Material Facts

In response to this OII, PG&E begins with descriptions of the magnitude of the size of its records, data, and facilities, eliciting images of circulating the globe and the Empire State Building.¹ PG&E's brief then proffers over 24 pages of the company's numerous efforts to improve the accuracy of its pipeline data, both generally and specifically to the six incidents.² Somewhere in between PG&E's recitation of diligence, it briefly admits: "With the minor exceptions noted below, PG&E does not disagree with the factual contentions and conclusions regarding its gas distribution recordkeeping stated in the SED Reports."³ PG&E then diverges from SED's conclusions and explains that its actions did not violate any law.⁴

Carmel was unable to determine from PG&E's brief the nature of these "minor" disagreements to SED's factual contentions and conclusions. Given this ambiguity, it is unclear to Carmel which facts PG&E expressly admits and which are in dispute. SED's six related accident reports identify numerous facts which may be material and may be disputed by the parties. Carmel requests that it be permitted to conduct factual discovery to determine the issues in dispute and whether they are material towards the resolution of this OII.

PG&E insists it violated no law due to its recordkeeping errors that caused the destruction of a Carmel home and caused the other five incidents described in the SED reports. Carmel vehemently disagrees with PG&E's position. This OII may ultimately resolve a dispute of legal interpretation and not a dispute of material fact, and thus be outside of the subject matter of this

¹ PG&E Response at 2-4.

² *Id.* at 5-25; Appendix A.

³ *Id.* at 5.

⁴ *Id.* at 31 ["PG&E does not believe that the factual allegations made in the SED Reports are sufficient to show violations of law."].

statement. However, the parties must investigate the scope of what facts PG&E admits, and what facts it disputes and why. Then the parties can argue whether PG&E violated any statute, general order, decision, or other applicable rule or requirement.⁵

III. Carmel's Proposed Discovery Schedule

Carmel is optimistic that that factual discovery will be neither lengthy nor complicated. It anticipates that discovery can be completed within four months.

IV. Conclusion

This OII must assist to prevent, whenever possible, future leaks and loss of property, as witnessed by Carmel residents on March 3, 2014 when a gas explosion occurred due to PG&E error. The federal National Transportation & Safety Board (NTSB) found in its August 30, 2011 accident report that one of the causes of the deadly 2010 San Bruno blast was PG&E's "deficient and ineffective" gas transmission integrity management program.⁶ The NTSB report recommended that PG&E "aggressively and diligently" search "all records" relating to its pipeline system, explaining that these records "should be traceable, verifiable, and complete."⁷

The Presiding Officers' Decision in the OII investigating PG&E's facilities records post-San Bruno concluded that many PG&E pipeline records were lost, misplaced, destroyed, or missing, even though PG&E has a statutory obligation to preserve them.⁸ The decision also concluded that PG&E knew of its deficiencies in its record management programs as far back as 1984, but failed to adequately respond to the problems.⁹ The Commission determined that PG&E committed 33 separate violations with respect to its recordkeeping failures, which

⁵ OII at 1.

⁶ NTSB Report at 125.

⁷ *Id.* at 133. Carmel notes that NTSB's accident report did not limit its recordkeeping recommendations to transmission line data, but discussed all pipeline records, including distribution lines at issue here.

⁸ Presiding Officers' Decision in I.11-02-016 at 253.

⁹ *Id.* at 254.

amounted to 350,189 total days in violation of the law.¹⁰

Californians would hope that the tragedy of San Bruno would have some semblance of a silver lining as a means to prevent future tragedy. Sadly, over three and-a-half years later, another gas explosion occurred in Carmel due to PG&E recordkeeping lapses. This repetition of error makes Carmel worry whether PG&E's self-proclaimed "substantial efforts to improve the accuracy of its gas distribution asset data"¹¹ has sufficiently minimized risk to protect its customers.

We are fortunate that the home that exploded in Carmel was vacant on the day PG&E's crews performed work on its distribution line. The doubt and fear of Carmel residents regarding the safety of nearby gas lines nonetheless remains. The residents of Castro Valley, Morgan Hill, Milpitas, and Mountain View may have similar doubts and fears in response to the incidents that occur in their towns. Why did these accidents happen, did violations occur, and how can we prevent such accidents in the future? Carmel respectfully asks that it participate in answering these questions. Carmel respectfully submits this statement so that the issues discussed will facilitate in the investigation into these questions.

March 5, 2015

Respectfully Submitted,

/s/ Steven R. Meyers

Steven R. Meyers

Britt K. Strottman

Emilie E. de la Motte

Meyers, Nave, Riback, Silver & Wilson

555 12th Street, Suite 1500

Oakland, CA 94607

Phone: (510) 808-2000

Fax: (510) 444-1108

E-mail: smeyers@meyersnave.com

Attorneys for CITY OF CARMEL-BY-THE-SEA

2409077.1

¹⁰ *Id.* at Appendix B.

¹¹ PG&E Response at 6.